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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,147	06/26/2001	Anatole Shamrakov	JP920000426USI	2206
39903 7590 01/10/2008 IBM ENDICOTT (ANTHONY ENGLAND) LAW OFFICE OF ANTHONY ENGLAND PO Box 5307 AUSTIN, TX 78763-5307			EXAMINER GRAHAM, CLEMENT B	
			ART UNIT 3692	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/892,147

Applicant(s)

SHAMRAKOV, ANATOLE

Examiner

Clement B. Graham

Art Unit

3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-7, 9, 14-17, 19, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-7, 9, 14-17, 19, 21-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 4-7, 9, 14-17, 19, 21-22 remained pending.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 21-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular, Claims 21-22, recites the words ["customers selecting from among the first, second third, fourth, fifth and sixth hosting service steps, first, second, third fourth, fifth , and sixth"].

However this language fails to distinctly claim Applicant's invention because the scope of the claims is unclear because the examiner is unable to ascertain if the first, second third, fourth, fifth and sixth hosting service are the same or different hosting services. Moreover the specification fails to clarify, the meaning of the limitation. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-7, 9, 14-17, 19, 21-22, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy et al (Hereinafter Kennedy U.S Patent 6, 963, 847 in view Kumar et al (Hereinafter Kumar U.S Pub: 2002/0042755).

As per claim 4, Kennedy discloses wherein second resource planning process comprises a process of an Enterprise Resource Planning application (ERP). (see column 3 lines 65-67 and column 4-9 lines 1-67).

As per claim 5, Kennedy discloses wherein said first shopping process of a WebSphere Commerce Suite of application. (see column 3 lines 65-67 and column 4-9 lines 1-67).

As per claim 6, Kennedy discloses including the step of: executing an application for a banking transaction process on the data center host computer system. (see column 3 lines 65-67 and column 4-9 lines 1-67).

As per claim 7, Kennedy discloses wherein said second resource planning process a process of an SAP ERP application . (see column 3 lines 65-67 and column 4-9 lines 1-67).

As per claim 9, Kennedy discloses wherein said second integration process comprises a process of an Mq Series of applications. (see column 3 lines 65-67 and column 4-9 lines 1-67).

As per claim 14, Kennedy discloses wherein the second resource planning process comprises a process of an Enterprise Resource Planning (ERP) application. (see column 3 lines 65-67 and column 4-9 lines 1-67).

As per claim 15, Kennedy discloses wherein said first shopping process of a WebSphere Commerce Suite of applications. (see column 3 lines 65-67 and column 4-9 lines 1-67).

As per claim 16, Kennedy discloses including an application stored on the banking transaction process when executed on the data center host computer system(see column 3 lines 65-67 and column 4-9 lines 1-67).

As per claim 17, Kennedy discloses wherein said second resource planning process a process of an SAP ERP application . (see column 3 lines 65-67 and column 4-9 lines 1-67).

As per claim 19, Kennedy discloses Wherein said second integration process comprises a process of an MQ Series of applications. (see column 3 lines 65-67 and column 4-9 lines 1-67).

As per claim 21, Kennedy discloses a method for offering hosting services, comprising the steps of:

a) hosting a plurality of applications on a host computer system at a data center(i. e , fulfillment server") wherein hosting the applications includes:
executing an first shopping application for a first shopping process on the data center host computer system, the first shopping process being accessible to shoppers ("i. e

clients") by Internet communications wherein the first shopping process performs the step of:

a hosting service step, the first hosting service step including:

communicating with a first integration process and a first resource planning process via Internet communications to transact first sales, wherein the first resource planning process is a process of a first resource planning application on a host computer system located remotely from the data center and the first integration process is a process of a first integration application on a host computer system located remotely from the data center; (Note abstract and see column 3 lines 65-67 and column 4-9 lines 1-67)

executing an application for a second resource planning process on the data center host computer system, wherein the second resource planning process performs the step of:

a hosting service step, the second hosting service step including:

communicating with a production process via Interact or dedicated link communications, wherein the production process is a process of production application on a host computer located remotely from the data center; (Note abstract and see column 3 lines 65-67 and column 4-9 lines 1-67)

and executing an application for a second integration process on the data center host computer system, wherein the second integration process performs the steps of:

a hosting service step, the third hosting service step including:

coupling communications between the first shopping process and the second resource planning process to transact second sales; (Note abstract and see column 3 lines 65-67 and column 4-9 lines 1-67)

a hosting service step, the fourth hosting service step including:

coupling communications between the second resource planning process and a second shopping process, wherein the second shopping process is a process of a second shopping application accessible to shoppers by Internet communications on a host computer located remotely from the data center, the communications between the second resource planning process and the second shopping process being Internet

communications to transact third sales; (Note abstract and see column 3 lines 65-67 and column 4-9 lines 1-67)

a hosting service step, the fifth hosting service step including:

coupling communications between the first shopping process and a third resource planning process to transact fourth sales, wherein the third resource planning process is a process of a third resource planning application on a host computer located remotely from the data center; (Note abstract and see column 3 lines 65-67 and column 4-9 lines 1-67)

and a hosting service step, the sixth hosting service step including:

coupling communications between a certain process and a third shopping process, wherein the third shopping process is a process of a third shopping application accessible to shoppers by Internet communications on a host computer located remotely from the data center and the certain process is a process of a certain application on a host computer located remotely from the data center;

and

b) performing a hosting service by the host computer system responsive to one of the, and wherein sales are transacted with shoppers for the customers responsive to ones of the selected hosting service steps being performed on the host computer system. (Note abstract and see column 3 lines 65-67 and column 4-9 lines 1-67).

Kennedy fail to explicitly teach first, second, third fourth, fifth , and sixth.

However Kumar discloses available-to-promise (ATP) servers each support or are associated with a planning engine able to provide, among other things, product availability responses to component ATP requests in the form of component quotations. One or more planning engines associated with ATP servers may also provide pricing and other additional capabilities, as appropriate. A local fulfillment manager (LFM) that is located at or otherwise associated with an ATP server manages the interaction between ATP server and. In one embodiment, LFM 22 is a "thin" engine whose primary responsibility within system is to communicate component requests, component quotations, component quotation confirmations, and component promises to and from

ATP server in a suitable format, and to monitor their status to the point of order fulfillment.(see Fig: 3 and para 0023, and 0052-0053).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Kennedy to include teach customers selecting from among the first, second third, fourth, fifth and sixth hosting service steps, first, second, third fourth, fifth , and sixth taught by Kumar in order for users to be able to used more than one host hosting services.

As per claim 22, Kennedy discloses a hosting system comprising:
a host computer system at a data center hosting a plurality of applications, the applications including:
a first shopping application stored on the host computer (i. e , fulfillment server”) system and operating as a first shopping process when executed on the host computer system, the first shopping process being accessible to shoppers by Internet communications, wherein the executing first shopping process performs a hosting service step, wherein the hosting service step includes:
communicating with a first integration process and a first resource planning process via Internet communications to transact first sales, wherein the first resource planning process is a process of a first resource planning application on a host computer system located remotely from the data center and the first integration process is a process of a first integration application on a host computer system located remotely from the data center (Note abstract and see column 3 lines 65-67 and column 4-9 lines 1-67)
a second application stored on the computer system mad operating as a second resource planning process when executed on the host computer system, wherein the executing second resource planning process forms a hosting service step, wherein the second hosting service step includes: see column 3 lines 65-67 and column 4-9 lines 1-67) communicating with a production process via Internet or dedicated link communications, wherein the production process is a process of a second production application on a host computer located remotely from the data center;
and a third application stored on the hosting host computer system and operating as a second integration process when executed on the host computer system, wherein the

executing second integration process performs a number of hosting service steps including: (see column 3 lines 65-67 and column 4-9 lines 1-67)

a hosting service step including:

coupling communications between the first shopping process and the second resource planning process to transact second sales;

a hosting service step including:

coupling communications between the second resource planning process and a second shopping process, wherein the second shopping process is a process of a second shopping application accessible to shoppers by Internet communications on a host computer located remotely from the data center, the communications between the second resource planning process and the second shopping process being Internet communications to transact third sales; (see column 3 lines 65-67 and column 4-9 lines 1-67) a hosting service step including:

coupling communications between the first shopping process and a third resource planning process to transact fourth sales, wherein the third resource planning process is a process of a third resource planning application on a host computer located remotely from the data center; (see column 3 lines 65-67 and column 4-9 lines 1-67)

and a hosting service step including:

coupling communications between a certain process and a third shopping process, wherein the third shopping process is a process of a third shopping application accessible to shoppers by Internet communications on a host computer located remotely from the data center and the certain process is a process of a certain application on a host computer located remotely from the data center;

wherein the host computer system to performs a hosting service responsive to one of the customers selecting from among the first, second third, fourth, fifth and sixth hosting service steps, and wherein sales are transacted with shoppers for the customers responsive to ones of the hosting service steps being performed on the host computer system. (see column 3 lines 65-67 and column 4-9 lines 1-67).

Kennedy fail to explicitly teach customers selecting from among the first, second third, fourth, fifth and sixth hosting service steps, first, second, third fourth, fifth , and sixth.

However Kumar discloses available-to-promise (ATP) servers each support or are associated with a planning engine able to provide, among other things, product availability responses to component ATP requests in the form of component quotations. One or more planning engines associated with ATP servers may also provide pricing and other additional capabilities, as appropriate. A local fulfillment manager (LFM) that is located at or otherwise associated with an ATP server manages the interaction between ATP server and. In one embodiment, LFM 22 is a "thin" engine whose primary responsibility within system is to communicate component requests, component quotations, component quotation confirmations, and component promises to and from ATP server in a suitable format, and to monitor their status to the point of order fulfillment.(see Fig: 3 and para 0023, and 0052-0053).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Kennedy to include teach customers selecting from among the first, second third, fourth, fifth and sixth hosting service steps, first, second, third fourth, fifth , and sixth taught by Kumar in order for users to be able to used more than one host hosting services.

Conclusion

RESPONSE TO ARGUMENTS

6. Applicant's arguments filed 10/26/2007 has been fully considered but they are moot in view of new grounds of rejections.

7. Applicant's claims 21, 22, states "planning a process via Internet communication to transact sales, second and third sales".

However the subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim:

(A) statements of intended use or field of use, (B) "adapted to" or "adapted for" clauses,

(C) "wherein" clauses, or

(D) "whereby" clauses.

This list of examples is not intended to be exhaustive. See also MPEP § 2111.04.

**>USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim should not be read into the claim. E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily). In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous.

Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process."<

Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. Toro Co. v. White Consolidated Industries Inc., 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings."). Any special meaning assigned to a term "must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention." Multiform Desiccants Inc. v. Medzam Ltd., 133 F.3d 1473, 1477, 45 USPQ2d 1429, 1432 (Fed. Cir. 1998). See also MPEP § 2111.01.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8.. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 703-305-1874. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Souh can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-0040 for regular communications and 703-305-0040 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

Jan 1, 2007


FRANTZY POINVIL
PRIMARY EXAMINER
Aa 3692